

EXHIBIT “F”

U. S. DISTRICT COURT
FOR THE WESTERN DISTRICT
OF PENNSYLVANIA

* * * * * * * * *
TINA LINDQUIST, *
Plaintiff * Case No.
vs. * 04-249-ENE
HEIM, LP, *
Defendant *
* * * * * * * * *

DEPOSITION OF
JOEL NICHOLS
July 22, 2005

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1 Q. Okay.

2 A. That's a 32-inch hydroform at
3 the time the accident happened.

4 Q. Okay. You were at it?

5 A. Yeah.

6 Q. Why don't you draw that on
7 there then, if you would, please?

8 WITNESS COMPLIES

9 BY ATTORNEY ROBINSON:

10 Q. Then you were standing at the
11 32-inch hydroform when the accident
12 happened?

13 A. Yeah. Prior to that, I went
14 up to Tina Lindquist and told her ---
15 you know, asked her to stand up at
16 the press. She might be more
17 comfortable standing at it than
18 sitting, you know, in order to
19 prevent that accident. Because like
20 I said, when I worked at Tonnard, the
21 accidents I seen up there happened
22 with a foot pedal. And the reason
23 for that is what I call riding the
24 pedal. You know, keeping your foot
25 overtop of the pedal ---

1 Q. Uh-huh (yes).

2 A. --- and I knew that particular
3 part and the operation she was doing
4 on there, she was going to have to be
5 leaning into the machine to squeeze
6 that part around that mandrel, and
7 her chances of --- if she was riding
8 the pedal, ---

9 Q. Yeah.

10 A. --- of tripping it, ---

11 Q. Yeah.

12 A. --- were pretty good.

13 Q. Do you think this accident
14 happened because she was riding the
15 pedal?

16 A. It's a possibility.

17 Q. Do you know of any other way
18 it could have happened other than her
19 riding the pedal?

20 A. Machine malfunction.

21 Q. Has anyone ever suggested that
22 the machine malfunctioned?

23 A. No, that's the only --- those
24 are the only two possibilities.

25 Q. If we remove machine

1 malfunction from the possibilities,
2 do you know of any other way this
3 accident could have happened other
4 than her riding the pedal?

5 A. No.

6 Q. Because the pedal is actually
7 protected with the housing; isn't it?

8 A. Yeah.

9 Q. So you can't accidentally just
10 step on it?

11 A. Right.

12 Q. You have to actually insert
13 your foot into it and then push ---

14 A. Right.

15 Q. --- down; right?

16 A. Right.

17 Q. And have you seen operators
18 ride the pedal before?

19 A. Yeah.

20 Q. Have you seen Tina Lindquist
21 ride the pedal before?

22 A. No, not that particular time.
23 As far as I know, that was the first
24 time she had ran the press brake was
25 that day there. Because I don't

1 remember her running the press brake
2 prior to that day.

3 Q. Do you remember her operating
4 any other presses at the plant?

5 A. Yeah.

6 Q. What ---?

7 A. One of the smaller punch
8 presses.

9 Q. Did you ever see her operating
10 any press brakes that were operated
11 by a foot switch besides this one?

12 A. No.

13 Q. And I saw a reference in the
14 internal accident report from ---

15 A. Right.

16 Q. --- Corry about your
17 conversation that you had with Tina
18 Lindquist before ---

19 A. Yeah.

20 Q. --- her injury. It sounds
21 like that conversation occurred
22 shortly before her injury?

23 A. Within 15 minutes before the
24 injury happened.

25 Q. And what shift were you

1 working?

2 A. I was working first shift at
3 the time.

4 Q. Which would be what time, sir?

5 A. That would be quarter to 7:00
6 in the morning till 3:15 in the
7 afternoon would be the first shift.

8 Q. Okay. And Tina Lindquist was
9 working that same shift; is that
10 right?

11 A. Yes.

12 Q. All right. And, I understand,
13 Tina Lindquist was working on the
14 Heim press brake during that shift?

15 A. Yes.

16 Q. And you were working at the
17 32-inch hydroform that you've drawn
18 on Exhibit Z?

19 A. Right.

20 Q. And what caused you to ---
21 well, first of all, where did this
22 conversation occur?

23 A. Over at the press brake.

24 Q. Did you walk from the 32-inch
25 hydroform to the press brake?

1 A. Yes.

2 Q. Did you walk over with the
3 specific purpose of having a
4 conversation with Tina Lindquist
5 because she was sitting ---

6 A. No, because I was ---.

7 Q. --- at a chair?

8 A. I was logging onto a job for
9 the 32-inch which I had to pass by
10 the press brake to log onto the
11 computer.

12 Q. Okay. And where was the
13 computer?

14 A. We need another doorway here
15 (indicating).

16 Q. Would you show that, if you
17 can?

18 WITNESS COMPLIES

19 A. Okay. We have a doorway here
20 (indicating).

21 BY ATTORNEY ROBINSON:

22 Q. Sure.

23 A. Another section of the
24 building out here (indicating) where
25 they do the tack --- you know,

1 tacking and braising ---

2 Q. Okay.

3 A. --- out at this area. You
4 have another doorway that comes here
5 (indicating) to the outside.

6 Q. Yeah.

7 A. And right here (indicating) at
8 that doorway is a computer to ---.

9 Q. Put a C on it is all we need
10 to do; if you would please?

11 WITNESS COMPLIES

12 A. Okay.

13 BY ATTORNEY ROBINSON:

14 Q. Thank you.

15 A. That's the computer logon I've
16 drawn right there (indicating). So I
17 have to walk down past the press
18 brake, you know, by the 250 ton,
19 through that doorway, to logon that
20 job. And on my way back through, I
21 had stopped at the press brake, you
22 know, and suggested to Tina to stand
23 up so she wouldn't ride the pedal.
24 Other than that, you know, I'd asked
25 --- you know, I'd ask her to be very

1 careful on that. You know, it's like
2 I said, I've seen way too many
3 accidents happen up at Tonnard. I
4 didn't want to see an accident happen
5 to her, and it ended up happening
6 anyway.

7 Q. And shortly after you told
8 her, it sounds like?

9 A. Yeah.

10 Q. Did she hear you?

11 A. Yeah, because I stopped at the
12 press and I was talking to her.

13 Q. Would you --- can you relay,
14 for us, in as much detail as you can,
15 the conversation that you and Tina
16 had at that time? You said this was
17 approximately 15 or so minutes before
18 the accident?

19 A. Yeah.

20 Q. And I know you might not have
21 it verbatim, but as best as you can,
22 tell us what each of you communicated
23 to each other, please.

24 A. Like I said, basically what I
25 communicated to her was, you know,

1 asking her if she could stand up at
2 it.

3 Q. Did you see her sitting down?

4 A. Yeah, she was sitting at the
5 press.

6 Q. I saw a number of chairs out
7 here in this room (indicating). Have
8 you seen those?

9 A. Yeah.

10 Q. Sitting up on the counters and
11 some are sitting ---

12 A. Yeah.

13 Q. --- in front of the machines?

14 A. Right. None of those are like
15 the chairs that are over in Building
16 Three.

17 Q. Okay. What was --- can you
18 describe the chair that she was
19 sitting in when you saw her?

20 A. It was a black, you know,
21 height-adjustable chair.

22 Q. Okay. The ones out there are
23 black height-adjustable chairs as
24 well; are they not?

25 A. I didn't see any ones that

1 were.

2 Q. Okay. All right. How many
3 legs?

4 A. I'd say up to about five.

5 Q. Okay. Does it have a little
6 bar down at the bottom between two of
7 the legs where you can put your feet?

8 A. Yeah.

9 Q. All right. So far we're
10 describing what I've seen out here.

11 A. Yeah.

12 Q. Maybe ---.

13 A. There's a lever here in ---
14 it's got the lever on the side to
15 adjust the height on it.

16 Q. Yeah. Okay. Maybe before we
17 go off the record but after we're
18 done with the questions we can go
19 look at one of the chairs out here
20 and you can tell me if that looks
21 like one of them?

22 A. All right.

23 Q. And when you walked over to
24 her, was she sitting in her chair?

25 A. Yeah, she was sitting in her

1 chair.

2 Q. Completely sitting?

3 A. Yeah.

4 Q. Were her feet off the ground?

5 A. I didn't notice that, but ---.

6 Q. Where was the foot switch
7 located?

8 A. It was far enough out to where
9 she was able to get her foot to it.

10 Q. How far was the chair from the
11 press brake at that time?

12 A. Pretty close, because like I
13 said, you had to actually lean into
14 the press a little bit to get that
15 part to squeeze.

16 Q. Did you see her leaning into
17 the press while she was working on
18 that press brake?

19 A. You didn't have to, because
20 I've had to run that before. And
21 like I said, I've always stood at
22 that and I've always, you know ---
23 I've had to lean into it to get those
24 parts to squeeze around that mandrel.

25 Q. And did you see her leaning

1 Q. What other operators have used
2 the --- before her accident, have
3 used the two-palm button switch to
4 operate the Heim press brake?

5 A. It was depending on the
6 operator and what job you're doing.

7 Q. How about this particular job
8 that --- this 1707 part that Tina was
9 forming at the time of her accident.
10 You had said that you always operated
11 the Heim press brake when forming
12 that part with the two-palm button
13 control; is that right?

14 A. Yeah.

15 Q. And do you know of other
16 people that would operate the Heim
17 press brake when making this 1707
18 part with the two-palm button switch?

19 A. Some, but not all.

20 Q. And who else would?

21 A. I can't recollect at this
22 point in time.

23 Q. Okay.

24 A. I mean, it's been so long
25 since they've redone the tooling down

1 there that you don't --- you don't
2 use the foot pedal on them --- the
3 press brakes over here anymore.

4 Q. Except for the one?

5 A. All except for that one
6 particular job.

7 Q. There are certain --- I
8 understand there are certain jobs
9 that --- where you can't use a two-
10 palm button ---.

11 A. Right, just this one
12 particular job that I know of that
13 --- right offhand.

14 Q. Could the operator decide
15 whether or not to use this foot
16 switch or the two-palm button switch
17 like you did?

18 A. Yes, because of the light
19 curtains that are on the press brakes
20 we have now, yes.

21 Q. No, I mean, before this
22 accident, did an operator such as
23 Tina Lindquist have the ability to
24 operate this particular press brake
25 with the two-palm button switch

1 rather than ---

2 A. Yeah.

3 Q. --- the ---?

4 A. Upon her request, yes. But
5 like I said, the set-up man at the
6 time was always in a hurry and he'd
7 always tell people that they're
8 wasting time, that the foot pedal was
9 faster.

10 Q. But would he tell you --- did
11 he ever tell you that you could not
12 use the foot switch --- or you could
13 not use the two-palm button switch?

14 A. It basically wasn't his
15 decision. It was basically operator
16 preference of whether he wanted the
17 foot pedal or hand button, but he
18 would still argue with you about it.

19 Q. Okay. Was he a supervisor of
20 operations?

21 A. He was a group leader. He
22 wasn't a supervisor.

23 Q. Was he a boss of the operators
24 --- press operators?

25 A. I really wouldn't say the boss

1 because the foreman's the boss.

2 Q. Did he have the ability to
3 tell you, as a press operator of this
4 Heim press brake, to use the foot
5 switch?

6 A. No, because as far as I know,
7 an operator can, you know --- if
8 they're not comfortable with the way
9 something is set up, they can refuse
10 to run it the way that it is set up.

11 Q. Were you taught that during
12 your training with Corry, that you
13 had the ability ---

14 A. Yeah.

15 Q. --- as an operator to choose
16 the ---?

17 A. Right, it's --- you know, it's
18 common sense. I mean, if you don't
19 feel something's safe you can, you
20 know, bring it to your set-up man's
21 attention or your supervisor's
22 attention. And you have to get, you
23 know --- they have to do something
24 about it to where it's not ---.

25 Q. Did you ever bring up with

1 anyone --- any supervisor your
2 position that using the foot switch
3 was not --- the manner in which it
4 was being used was not safe?

5 A. You know, the set-up man,
6 which I told him, you know, I don't
7 like the foot switch, I'd rather use
8 the hand button.

9 Q. And I mean other than Bob
10 Rooney?

11 A. No, we went through so many
12 supervisors over in Building Three it
13 was almost pointless to talk to a
14 supervisor.

15 Q. Why have they done through so
16 many supervisors?

17 A. Honestly, I don't know. It
18 might have to do with something with
19 production or whatever. I'm not
20 exactly sure.

21 Q. Do you remember Gary Deitz
22 (phonetic) being the supervisor at
23 the time ---

24 A. Yes.

25 Q. --- of this incident?

1 Q. Did that warning exist on the
2 press brake at the time Tina
3 Lindquist was injured?

4 A. Yes, it did.

5 Q. And was that fastened directly
6 to the --- on the front of the press
7 brake and facing the operator?

8 A. Yes.

9 Q. Is there anything that
10 obstructed Tina Lindquist's ---

11 A. No.

12 Q. --- view of that?

13 A. No.

14 Q. Tina Lindquist has also
15 testified that she has never seen
16 that warning and never noticed that
17 warning, at any time, before her
18 injury. Do you have any explanation
19 as to anything that would have
20 prohibited her from seeing that
21 warning?

22 A. No.

23 Q. The very first warning says to
24 never place any part of your body
25 under the ram or within the die area;

1 do you see that?

2 A. Yeah.

3 Q. Is that easy for you to
4 understand?

5 A. Yeah.

6 Q. What does that --- what is
7 that telling you?

8 A. Don't get your hands in the
9 way of operating the machine.

10 Q. Okay. And it says, never, so
11 under any ---

12 A. Right.

13 Q. --- circumstances; right?

14 A. Right.

15 Q. Okay. The next warning says
16 to never operate, install dies or
17 maintain this machine without proper
18 instruction and without first reading
19 and understanding the operator's or
20 machine manual?

21 A. Right.

22 Q. Do you have any trouble
23 understanding that?

24 A. No.

25 Q. And what is that telling you?

1 A. If you're not qualified, don't
2 run it.

3 Q. Is it also telling you to make
4 sure you read the operator's manual
5 with this?

6 A. Right.

7 Q. And we talked to two
8 maintenance personnel, so far, that
9 have said the manual ---

10 A. It always tucked along the
11 side.

12 Q. There you go. We're looking
13 at Corry P, Photo 40. It shows the
14 side of the Heim press brake and it
15 has a bin and it has an operator's
16 manual in the bin; is that right?

17 A. Yes.

18 Q. And did that operator's manual
19 exist in the machine, the Heim press
20 brake, at the time of her injury?

21 A. Yes, it did. All the presses
22 have them.

23 Q. So it was available to any
24 operator who chose to read it ---

25 A. Right.